IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2080 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JUNAGADH JUNIOR EDUCATION TRUST. - Petitioner(s)
Versus
HONOURABLE JUSTICE (RTD.) R J SHAH, FEE AND ADMISSION & 1 - Respondent(s)

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Appearance :
MR HJ NANAVATI for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.
MR A.D.OZA WITH MR DIPAK R DAVE for Respondent(s) : 1,
MS ARCHANA RAVAL, AGP. for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 13/03/2007

ORAL JUDGMENT

1 **Rule.** Heard learned Advocates appearing for the respective parties. With consent of the parties the petition is taken up for final hearing and disposal today.

2 The principal challenge in the petition is the fixation of fees by respondent No.1 – Committee. Though original challenge was for the academic year commencing from 2006-2007 the petitioner has subsequently restricted the claim to fixation of fees for academic years 2007-2008 and onwards.

3 The grievance made on behalf of the petitioner is that the petitioner was never heard and hence in absence of any opportunity to place on record detailed material in support of the amount of fees proposed to be charged by the petitioner respondent No.1 – Committee has arrived at an ad-hoc figure. On behalf of the respondents the submission is that the trustee of the petitioner trust who is also representing the association of various self financed institutions as President of the said association was heard by respondent No.1-Committee and hence, the grievance made on behalf of the petitioner trust is unwarranted. It is further submitted that various details necessary for fixation of fees for subsequent years were not submitted by the petitioner – trust.

4 It is apparent that the petitioner trust was never granted any opportunity of hearing. The contention that the President of the association of various self financed institutions was heard on behalf of all concerned and he was also a trustee of the petitioner trust

does not merit acceptance for the simple reason that firstly the procedure adopted of not hearing the individual institution and only hearing the association is, to say the least, a faulty procedure : secondly, hearing granted to the President of the association cannot be equated with hearing granted to the petitioner trust, even if the President of the association might be one of the trustees of the petitioner trust, as the capacity in which both of them function are independent of each other.

5 Therefore, without entering into any further discussion on merits of the controversy between the parties it would be just and proper if respondent No.1-Committee is directed to grant an opportunity of hearing to the petitioner trust before fixation of fees for academic year 2007-2008 and onwards. For this purpose, it will be open to the petitioner-trust to furnish all relevant details within a period of fortnight from today and thereafter respondent No.1 – Committee is directed to grant an opportunity of hearing to the petitioner trust.

6 Subject to what is stated hereinbefore the petition stands allowed accordingly. Rule made absolute. There shall be no order as to costs.

Sd/-
(D.A. Mehta, J)

m.m.bhatt